LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 6615 | **NOTE PREPARED:** Mar 19, 2005
BILL NUMBER: SB 213 | **BILL AMENDED:** Mar 17, 2005

SUBJECT: Sales Tax on Out-of-State Sales.

FIRST AUTHOR: Sen. Young R Michael | **BILL STATUS:** CR Adopted - 2nd House
FIRST SPONSOR: Rep. Friend

FUNDS AFFECTED: X GENERAL | **IMPACT:** State
X DEDICATED
FEDERAL

Summary of Legislation: (Amended) This bill brings Indiana law into conformance with the requirements of the Streamlined Sales and Use Tax Agreement concerning:

(1) the definition of tobacco; and
(2) monetary allowances given to sellers and certified service providers for collecting sales and use taxes.

The bill allows a partial sales tax exemption for a cargo trailer or a recreational vehicle and a full exemption for an aircraft purchased in Indiana, if it is to be titled or registered for use in another state. The bill provides that for cargo trailers and recreational vehicles, the exemption is equal to the sales tax imposed in Indiana minus the sales tax that would be imposed in the other state if the transaction had occurred in that state.

The bill also establishes a $1,000 adjusted gross income tax deduction for the purchaser of a single family or two family residence constructed with steel framing manufactured in the United States.

Effective Date: July 1, 2005.

Explanation of State Expenditures: The Department of State Revenue (DOR) would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate the changes proposed by the bill. The DOR's current level of resources should be sufficient to implement these changes.

<u>Explanation of State Revenues:</u> (Revised) *Streamlined Sales Tax Conformance*: These conformance provisions of the bill are expected to have little or no fiscal impact on Sales Tax revenues.

This bill adds "tobacco" to the list of items in IC 6-2.5-5-20, that are *NOT* considered "food or food ingredients for human consumption." This provision of the bill codifies an existing interpretation of IC 6-2.5-5-20 that the DOR has already set forth in *Sales Tax Information Bulletin #9, January 2004.* This provision is not expected to have a fiscal impact on Sales Tax revenue.

The bill also adds conforming language to IC 6-2.5-11-10 concerning sellers who contract with a certified service provider (CSP) to collect and remit Sales Taxes on behalf of the seller. The added language provides that these sellers and CSP's are to be allowed a collection allowance equal to that provided for in the Streamlined Sales Tax Agreement (SSTA). As of March 21, 2005, no rate for the allowance had been agreed upon by the SSTA member states. Therefore, until a rate is established, the fiscal impact on Sales Tax revenue is indeterminable. Currently, all sellers who remits in a timely manner, as provided in IC 6-2.5-6-10, are entitled to a collection allowance of 0.83% of their total Sales and Use Tax liability for that reporting period.

Sales Tax Exemptions: This bill provides a partial Sales Tax exemption for recreational vehicles (RV's) and cargo trailers (trailers), and a full exemption for aircraft, if the RV, trailer, or aircraft is purchased in Indiana, and is to be titled or registered in another state. This exemption will result in a decrease in state Sales Tax revenue. The amount of Sales Tax revenue that would be lost is indeterminable.

The bill also provides that in order for the purchaser to claim either of these exemptions, the purchaser must transport the RV, trailer, or aircraft out of Indiana within 30 days, and title or register the RV, trailer, or aircraft for use in another state. The bill also provides that the purchaser has the burden of providing the retail merchant with an affidavit stating the intent to transport to, and title the vehicle in, another state.

The bill provides that any aircraft purchases meeting the above requirements are fully exempt from Sales Tax.

The Sales Tax exemption for RV's and trailers is equal to the Sales Tax imposed in Indiana minus the sales tax that would be imposed in the registration state if the transaction had occurred in that state. The example below illustrates the computation.

"Y", a resident of Virginia (VA), purchases a RV in Indiana (IN), immediately transports the vehicle back to VA, and titles the vehicle in VA. The purchase price of the vehicle was $100,000. IN's Sales Tax rate is 6%, and VA's sales tax rate is 4%. At the time of purchase, "Y" would pay 4%, or $4,000, in Sales Tax to IN. The exemption allowed by this bill would be 2%, or $2,000. The computation is as follows.

6% (IN rate) minus 4% (VA rate) equals an exemption of 2%. The exemption of 2% is subtracted from the Indiana Sales Tax rate of 6%, and "Y" is required to pay 4% of the purchase price of $100,000, or $4,000.

If the rate that would have been paid in the state of registration or title is equal to or above the Indiana rate of 6%, then there is no exemption and the purchaser is liable for the entire 6% Sales Tax in Indiana. Conversely, if the RV or trailer is registered in a state with no Sales Tax, then the exemption is equal to 6% and no Sales Tax is due. Not taking into account any local option Sales Taxes, there are currently 20 states with a Sales Tax rate of 6% or higher.

The bill defines a "cargo trailer" as a vehicle:

(1) without motive power;
(2) designed for carrying property; and
(3) designed for being drawn by a motor vehicle.

The bill also provides that the term "cargo trailer" includes pole trailers, boat trailers, utility trailers, semitrailers (as defined in IC 9-13-2-164(a)), and two wheeled homemade trailers.

Sales tax revenue is deposited in the Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

Background: P.L. 81-2004 (HEA 1365-2004) effective July 1, 2004 repealed a Sales Tax exemption for motor vehicles, watercraft, trailers, and aircraft purchased in Indiana and registered out-of-state. Since the exemption has yet to be repealed for an entire year, and these sales are currently taxable, figures are still not available on the specific increase in Sales Tax revenue due to the repeal of the exemption.

Steel Frame Home Deduction: The bill would reduce state Adjusted Gross Income (AGI) Tax liabilities of individual taxpayers who purchase certain steel frame homes from a builder. The revenue loss due to this bill could potentially total about $78,000 in FY 2007. This impact could increase by 5% annually thereafter.

Background: The bill provides for a deduction from Adjusted Gross Income for an individual taxpayer who purchases from a builder a single-family residence constructed wholly or partially of steel framing manufactured in Indiana. Under the bill, the deduction amount is the lesser of : (1) the part of the purchase price of the home attributable to labor and materials for the steel framing; or (2) $1,000.

The fiscal impact estimate is based on home construction data from the Steel Framing Alliance and the National Association of Home Builders that steel frame homes represent about 5.5% of new home construction nationally. Based on recent one- and two-family housing starts for Indiana, it is estimated that about 2,300 homes containing steel framing will be constructed in tax year 2006. Growth in steel frame housing starts is assumed to be about 5% annually thereafter based on the long-run trend in housing starts in recent years (average annual growth since 1991 of about 5.2%). The fiscal impact estimate of the deduction on these homes assumes that the maximum deduction will be claimed. Eighty six percent of the revenue from the AGI Tax on individuals is deposited in the state General Fund, and 14% of this revenue is deposited in the Property Tax Replacement Fund. Since the deduction is effective beginning in tax year 2004, the fiscal impact would begin in FY 2005.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Steel Frame Home Deduction:* Because the proposed deduction would serve to decrease Taxable Income, counties imposing local option income taxes (CAGIT, COIT, and/or CEDIT) may, as a result, experience an indeterminable decrease in revenue from these taxes.

State Agencies Affected: Department of State Revenue.

Local Agencies Affected: Counties with a local option income tax.

Information Sources: *Characteristics of New Single-Family Homes (1987-2001)*, National Association of

Home Builders, http://www.nahb.org.
New Residential Permits by County, Stats Indiana, http://www.stats.indiana.edu.
Use of Steel by Application, The Steel Framing Alliance, http://www.steelframingalliance.com,
Sales Tax Information Bulletin #9, January 2004.

Fiscal Analyst: Adam Brown, 317-232-9854; Jim Landers 317-232-9869.